UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,912	10/04/2001	Perry J. Robertson	SD-6769	3158

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EXAMINER
SHIFERAW, ELENI A

ART UNIT	PAPER NUMBER
2136	

MAIL DATE	DELIVERY MODE
01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/970,912	ROBERTSON ET AL.
	Examiner	**Art Unit**	
	Eleni A. Shiferaw	2136	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>16 January 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and ~~an explanation of how the new or amended claims would be rejected is provided below or appended.~~

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>*1-21*</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Regarding argument Hankins not being an inventor, argument is not persuasive because Hankins does not have to be the inventor. The point is Hankins published same invention more than a year before applicant's filing date and it was known to the public (see, MPEP 35 USC 102 b) and/or "the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States". Regarding argument "nothing enabling in the Hankins article", the examiner respectfully disagrees with the appellant's contentions and would like to refer back to page 2 lines 1-3 of the Applicant's disclosure wherein the applicant states that the "The present invention allows the encryption engine pipeline to be kept full, thus permitting full-rate operation". Hankins discloses a method of developing a new encryption device/DES that promises the security and bandwidth accommodation necessary to scramble various types of data at speeds unmatched by many other encryption technologies using pipelining as a hardware technique and keeping the PIPELINE FULL and continuously allowing information to pass through increases the pace at which information can be processed (see page 1 first paragraph and page 2 lines 6-22). Hankins in fact keeps the pipeline full as discussed above. Regarding feedback (around the pipeline stages), argument is not persuasive because it is not given patentable weight since it is in the preamble and all the limitation in the body of the claim has been addressed. Regarding encryption context identifiers, or a bank of variables (comprising initial variables, and/or output from previous encryption/decryption stages), argument is not persuasive because Hankins discloses a DES pipelining commonly used for encryption by dividing the algorithm into 16 equal blocks at the transistors, entering data into the first block and is passed through each block until it reaches the 16th section, where it appears as output in the encrypted form (see page 2 lines 11-22). Regarding running the pipeline dry and having many security contexts as there are pipelined encryption/decryption stage, applicant seems to be arguing ideas that are not claimed clearly. Regarding Hankins not using DES ASIC or any other encryption/decryption chip in any mode of operation or standards like FIPS PUB 81, ANSI X3.106, ANSI X9.52, argument is not persuasive because Hankins discloses DES ASIC manipulating information differently on each clock cycle by using various keys on different block cycles to encrypt or decrypt data that is being pumped through the device in every clock cycle (see page 2 lines 11-22).

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1/25/07

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